

REMARKS

Reconsideration and withdrawal of the rejections set forth in the Office Action dated September 15, 2006 are respectfully requested.

I. Double-Patenting Rejections

Claims 1-18 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-47 of U.S. Patent No. 6,849,270.

Claims 1-18 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-33 of U.S. Patent No. 6,342,244.

Claims 14-19 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-33 of U.S. Patent No. 6,605,299.

A Terminal Disclaimer prepared in accordance with 37 C.F.R. §1.321(b) and (c) is enclosed. The signed Terminal Disclaimer obviates the obviousness-type double patenting rejections based on the U.S. Patent Nos. 6,849,270; 6,342,244; and 6,605,299.

Claims 1 and 3 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1 and 2 U.S. Patent No. 6,365,179. Applicants respectfully traverse this rejection.

A. Analysis

In determining whether a non-statutory basis exists for a double patenting rejection, the first question to be asked is - does any claim in the application define merely an invention that is merely an obvious of an invention claimed in the patent?. M.P.E.P. 804 II.B.1.

Instant claims 1 and 3 are to a conjugate of the general structure "polymer-linkage - ligand derived from an amine-, hydroxy- or carboxyl-containing compound".

Claim 1 of the '179 patent is directed to a conjugate of the general structure "hydrophobic moiety - linkage - drug".

Thus, in the instant claims, the linkage serves to link a hydrophilic polymer and a ligand, whereas in the claims of the '179 patent, the linkage serves to link a hydrophobic moiety to a ligand.

One skilled in the art would not reasonably find a hydrophilic polymer to be an obvious variant of a hydrophobic moiety suitable for incorporation into a lipid bilayer. Accordingly, withdrawal of the obviousness-type double patenting rejection over the '179 patent is respectfully requested.

II. Conclusion

In view of the above remarks, the applicants submit that the claims now pending are in condition for allowance. A Notice of Allowance is, therefore, respectfully requested.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 838-4402.

Respectfully submitted,
Perkins Coie LLP

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